

CHAPTER NO. 906

HOUSE BILL NO 3337

By Representative Maddox

Substituted for: Senate Bill No. 2862

By Senator Herron

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 6 and Title 36, Chapter 5, relative to child support.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-5-101(a), is amended by adding the following as a new subdivision (6):

(6)

(A) In title IV-D child support cases the department of human services is enforcing, the department shall provide a child support obligor notice ninety (90) days prior to the eighteenth (18th) birthday of a child or children for whom the obligor is paying child support, as such birthday is indicated by the department's records.

(B) If the following conditions are met, then the obligor may seek termination of the order of support and may also request that the department, as required by federal law, assist in seeking termination of the order:

(i) The department's records demonstrate that the child for whom an order of support in a Title IV-D child support case has been entered has reached eighteen (18) years of age and has graduated from high school, or that the class of which the child is a member when the child reached eighteen (18) years of age has graduated from high school, the obligor has otherwise provided the department with written documentation of such facts, or the obligor has provided the department with written documentation that a child for whom the obligor is required to pay support has died or has married; and

(ii) No other special circumstances exist, including but not limited to the circumstances provided for in § 36-5-101(p) regarding disabled children, that require the obligation to continue; and

(iii) The obligor does not owe arrearages to the obligee parent, any guardian or custodian of the child, the department of human services, or to any other agency of the state of Tennessee, or any other Title IV-D agency of any state; and

(iv) The costs of court have been paid; and

(v) There are no other children for whom the obligor is required to pay child support.

(C)

(i) If the conditions of subitems (B)(i)-(v) exist in the Title IV-D case as shown by the department's records, or such conditions exist based upon the written documentation provided by the obligor and verified by the department, then the department shall immediately suspend the order of support temporarily, for the child who has reached majority. If the existing court order was the result of a deviation from the child support guidelines, the department immediately shall seek from the court termination of the support order for such child, and shall provide the obligee with notice of the filing of the petition to terminate such order.

(ii) If the existing order was not the result of a deviation from the child support guidelines, the department shall give notice to the obligee and to the other obligor of the temporary suspension of the order based upon verification of the status of the case pursuant to item (B), of its intent to permanently terminate the support order by an administrative order, which the department may issue for such purpose, and of the opportunity for a hearing upon the issue of permanent termination of the order.

(iii) If the obligee contests the temporary suspension of the order of support under the circumstances of (B)(i)-(v) and prevails following entry of the court or administrative order, the obligor shall pay the support amounts and any other arrearages or court costs not paid as a result of the temporary suspension of the order. The administrative order shall be filed with the clerk of the court having jurisdiction of the case.

(D)

(i) If the conditions of items (B)(i)-(iv) are met in the Title IV-D case, but there are other children for whom the obligor is still obligated to support, the department shall immediately conduct a review of the support order and shall seek its adjustment if appropriate under the child support guidelines for such children. The obligor shall continue to make child support payments in accordance with the existing order until the court or department modifies the order pursuant to this subdivision.

(ii) If the existing court order was the result of a deviation from the child support guidelines, the department shall seek modification of the support order from the court, and shall provide the obligee and the obligor with notice of the filing of the petition to modify such order.

(iii) If the existing order was not the result of a deviation from the child support guidelines, and the department reviews the order and determines that the order should be modified pursuant to such guidelines, then the department shall notify the parties of its intent to modify the support order by an administrative order, which the department may issue for such

purpose, and shall notify the parties of the opportunity for a hearing upon the issue of modification of the order.

(iv) The support order shall be modified as established by order of the court or the department as required pursuant to the child support guidelines. If the modified payment amount is lower than the payment amount required prior to the modification, then the obligor shall be given credit for such amount against future payments of support for the remaining children under the order. If the modified payment amount is higher than the payment amount required prior to the modification, then the obligor shall pay the higher ordered amount from the date of entry of the order. The administrative order shall be filed with the clerk of the court having jurisdiction of the case.

(E) The department's review and adjustment process and the administrative hearing process outlined in this subdivision shall comply with any other due process requirements for notice to the obligor and obligee as may otherwise be required by this chapter.

SECTION 2. Tennessee Code Annotated, Section 36-5-503(a)(1)(C), is amended by deleting that item in its entirety and substituting instead the following language:

(C) The child or children has reached majority and has graduated from high school, or the class of which the child is a member when the child attains eighteen (18) years of age graduates, whichever occurs later, and no other special circumstances requiring the obligation to continue exist.

SECTION 3. Tennessee Code Annotated, Section 36-5-503(a)(5)(A), is amended by deleting the language "may" before the language "administratively terminate" and by substituting instead the language "shall", and is further amended by inserting the language "in accordance with this section" at the end of the first sentence of the item.

SECTION 4. Tennessee Code Annotated, Section 36-6-104, is amended by inserting the following as a new subsection (b) and by redesignating the current subsection (b) as subsection (c):

(b) The local education agency shall provide proof of a child's graduation from high school to the department of human services, the department's contractor, or either of the child's parents within twenty (20) business days of the department's, the department's contractor, or the parent's or parents' written request for such proof. The local education agency shall not include any information that would violate any provisions protecting the child's privacy, or §36-5-101(a)(4)(B)(iv).

SECTION 5. This act shall take effect January 1, 2005, the public welfare requiring it.

PASSED: May 20, 2004



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 8th day of June 2004



PHIL BREDESEN, GOVERNOR